

HILL, FARRER & BURRILL LLP  
A LIMITED LIABILITY PARTNERSHIP  
ATTORNEYS AT LAW  
ONE CALIFORNIA PLAZA, 37TH FLOOR  
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Attorneys for Plaintiff and Counterclaim  
Defendant PJAM LLC, and Counterclaim  
Defendants JEFFERSON AGAR, ALEX  
MARTINI and PATRICK JOHNSTON

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

PJAM LLC,

Plaintiff,

vs.

XX GLOBAL, INC., JACQUES  
WEBSTER, and DOES 1-20,  
inclusive,

Defendants.

CASE NO. 2:18-cv-03192 JFW  
(MRWx)

Judge: John F. Walter

**PLAINTIFF/COUNTER-  
DEFENDANTS' MEMORANDUM  
OF CONTENTIONS OF FACT AND  
LAW**

XX GLOBAL, INC. and JACQUES  
WEBSTER,

Counterclaimants,

vs.

PJAM LLC, JEFFERSON AGAR,  
ALEX MARTINI, PATRICK  
JOHNSTON, and ROES 1 through  
10, inclusive,

Counterclaim Defendants.

CV 18-3192-JFW (MRWX)

PLAINTIFF/COUNTER-DEFENDANTS' MEMO OF CONTENTIONS OF FACT & LAW

1 Plaintiff/Counter-Defendant PJAM LLC (“Plaintiff” or “PJAM”)<sup>1</sup>, submits  
 2 the following Memorandum of Contentions of Fact and Law pursuant to Local Rule  
 3 16-4.

4  
 5 **I. CLAIMS AND DEFENSES**

6 **A. Claim 1: Defendants Breached Their Contract With PJAM**

7 **Elements**

- 8 1. Formation of a contract.
- 9 2. Performance by plaintiff of any conditions precedent to his right  
 10 to demand performance by the defendant;
- 11 3. Breach of the contract by defendant.
- 12 4. Damages

13  
 14 **Key Evidence**

15 Defendants entered into a written contract in which they agreed that Jacques  
 16 Webster would travel to and perform at an entertainment venue in Minnesota in  
 17 exchange for a fee. Plaintiffs paid \$150,000 to Defendants (this is stipulated), made  
 18 appropriate travel arrangements for Defendants (this is disputed) and complied with  
 19 all other material terms of the contract. Defendants breached the contract by failing  
 20 to show up and perform. Plaintiffs paid \$150,000 to Defendants (this is stipulated),  
 21 incurred additional costs in anticipation of his performance, and lost profits in an  
 22 amount to be determined at trial.

23  
 24 **Anticipated Evidentiary Issues**

25 Defendants have filed two motions in limine. Other than as set forth in those  
 26 motions, PJAM does not anticipate evidentiary issues.

27  
 28 <sup>1</sup> Defendants abandoned their claims against Counter-Defendants Jefferson Agar, Alex Martini, and Patrick Johnston.

1           Legal Issues

2           The parties' agreement is governed by Minnesota law, which should apply to  
3 substantive issues in this case.

4  
5           **B. Counterclaim 1: Counter-Defendant Breached Its Contract With**  
6           **Counterclaimants**

7           Elements

- 8                   1. Formation of a contract.
- 9                   2. Performance by plaintiff of any conditions precedent to his right  
10 to demand performance by the defendant;
- 11                   3. Breach of the contract by defendant.
- 12                   4. Damages

13  
14           Key Evidence

15           This claim is based on the same contract at issue in Claim 1 discussed above.  
16 Defendants are no longer pursuing claims against the individual Counter-  
17 Defendants, Jefferson Agar, Alex Martini, and Patrick Johnston. Defendants  
18 materially breached the contract by Mr. Webster's failure to show up and perform  
19 as contemplated in the contract. This relieves PJAM of all obligations under the  
20 contract.

21  
22           Anticipated Evidentiary Issues

23           Plaintiff objects to the admissibility of some of Defendants exhibits on the  
24 grounds stated in other joint filings filed concurrently herewith.

25  
26           Legal Issues

27           The parties' agreement is governed by Minnesota law, which should apply to  
28 substantive issues in this case.

1     **II.    BIFURCATION OF ISSUES**

2           Plaintiff/Counter-Defendant does not request bifurcation of any issues at this  
3     time.

4  
5     **III.   JURY TRIAL**

6           The claims and defenses asserted in this action are triable to a jury and a  
7     timely request for jury has been made.

8  
9     **IV.   ATTORNEYS' FEES**

10          The Contract contains the following indemnity provision:

11          "Lender [Defendants] agrees to defend, indemnify and hold harmless  
12     Company [Plaintiff] . . . from and against any and all claims, liability, loss and  
13     damage, including reasonable outside attorneys' fees, arising out of the of or  
14     resulting from Lender or Artist's breach of any obligation or any warranty or  
15     representation set forth herein."

16          If Plaintiff prevails, it will be entitled to recover attorney's fees under this  
17     provision.

18  
19     **V.    ABANDONMENT OF ISSUES**

20          Defendants/Counter-Claimants abandoned their counterclaims against  
21     Counter-Defendants Jefferson Agar, Alex Martini, and Patrick Johnston.

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1 DATED: March 14, 2019

HILL, FARRER & BURRIL LLP

2  
3  
4 By: /s/ Stephen J. Tomasulo

5 STEPHEN J. TOMASULO

6 Attorneys for Plaintiff and Counterclaim  
7 Defendant PJAM LLC, and Counterclaim  
8 Defendants JEFFERSON AGAR, ALEX  
9 MARTINI and PATRICK JOHNSTON  
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28 HFB 2029753.2 P6550002

**PROOF OF SERVICE**

I, MONICA MAKIYAMA declare:

I am a resident of the state of California and over the age of eighteen years, and not a party to the within action; my business address is Hill, Farrer & Burrill LLP, One California Plaza, 37th Floor, 300 South Grand Avenue, Los Angeles, California 90071-3147. On March 14, 2019, I served true copies of the following document(s) described below on the interested parties as follows:

**PLAINTIFF/COUNTER DEFENDANTS' MEMORANDUM OF CONTENTIONS OF FACT AND LAW**



**BY CM/ECF NOTICE OF ELECTRONIC FILING: I**

electronically filed the document(s) with the Clerk of the court by using the CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system. Participants in the case who are not registered CM/ECF users will be served by mail or by other means permitted by the court rules.



by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.



by electronic mail: I transmitted a true copy of such document(s) described above, via electronic mail to: see attached service list below.

Matthew J. Cave, Esq.  
KING, HOLMES, PATERNO & SORIANO, LLP  
1900 Avenue of the Stars, 25<sup>th</sup> Floor  
Los Angeles, CA 90067-4506  
Telephone: (310) 282-8989; Facsimile: (310) 282-8903  
E-mail: [MCave@KHPSLAW.COM](mailto:MCave@KHPSLAW.COM)

I declare under penalty of perjury under the laws of the United States of America California that the above is true and correct and that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on March 14, 2019, at Los Angeles, California.

/s/ Monica Makiyama  
MONICA MAKIYAMA